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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,768	04/12/2006	Gero Nenninger	10191/4217	3790

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KENYON & KENYON LLP
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EXAMINER

NGUYEN, CHUONG P

ART UNIT	PAPER NUMBER
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3663

MAIL DATE	DELIVERY MODE
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12/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,768	Applicant(s) NENNINGER ET AL.	
	Examiner Chuong P. Nguyen	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 15 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 15, 19-21 and 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicants' 09/11/2009 Amendment, which directly amended claims 14, 19-21; cancelled claims 16-18; added new claim 30; and traversed the rejection of the claims of the 07/07/2009 Office Action are acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-21 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Schramm et al (WO 9967114, equivalent to IDS reference – US 6,253,123).

Regarding claim 14, Schramm et al disclose in Fig 2-5 a method for rollover stabilization of a vehicle in a critical driving situation, comprising: ascertaining a mass of the vehicle (i.e. mass quantity M; second height quantity h_c) (Fig 3-4; Fig 5 “501”; col 2, line 66 – col 3, line 8; col 3, line 66 – col 4, line 5; col 9, lines 15-19; col 10, lines 45-60; col 11, line 59 – col 12, line 12; col 13, line 39+; claims 5-6); executing a rollover stabilization algorithm (i.e. processor 309), the rollover stabilization algorithm intervening in a driver operation in a critical situation using an actuator (i.e. retarder 312; actuators 313*ixj*) in order to stabilize the vehicle (Abstract; Fig 3-4; Fig 5 “501, 505”; col 9, line 16 – col 13, line 62), estimating information on a center of gravity of the vehicle (i.e. first height quantity h) (Fig 4; Fig 5 “501”; col 3, lines 21-57; col 6, lines 38+;

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col 11, line 59 – col 12, lines 12; col 13, line 39+; claim 5), wherein the rollover stabilization algorithm (i.e. processor 309) is executed as a function of the vehicle mass and the information on the center of gravity of the vehicle (Fig 4; Fig 5 “501”; col 11, line 59 – col 13, line 45; claims 5-6), and wherein the information on the center of gravity of the vehicle is derived from an estimated characteristic speed (Fig 2-4; col 3, lines 21-57; col 6, line 38 – col 7, line 60; col 11; col 9, lines 20-47; col 11, line 58 – col 2, line 1).

Regarding claims 15, 19-21, and 27-29, the reasons are the same as those stated in section 3 of the previous Office Action dated 07/07/2009, as further clarified in section 5 below, which reasons are herein incorporated.

Regarding claim 30, Schramm et al disclose in Fig 2-5 a method for rollover stabilization of a vehicle in a critical driving situation, comprising: ascertaining a mass of the vehicle (i.e. mass quantity M ; second height quantity h_c) (Fig 3-4; Fig 5 “501”; col 2, line 66 – col 3, line 8; col 3, line 66 – col 4, line 5; col 9, lines 15-19; col 10, lines 45-60; col 11, line 59 – col 12, line 12; col 13, line 39+; claims 5-6); executing a rollover stabilization algorithm (i.e. processor 309), the rollover stabilization algorithm intervening in a driver operation in a critical situation using an actuator (i.e. retarder 312; actuators 313*ixj*) in order to stabilize the vehicle (Abstract; Fig 3-4; Fig 5 “501, 505”; col 9, line 16 – col 13, line 62), estimating information on a center of gravity of the vehicle (i.e. first height quantity h) (Fig 4; Fig 5 “501”; col 3, lines 21-57; col 6, lines 38+; col 11, line 59 – col 12, lines 12; col 13, line 39+; claim 5), wherein the rollover stabilization algorithm (i.e. processor 309) is executed as a function of the vehicle mass and the information on the center of gravity of the vehicle (Fig 4; Fig 5 “501”; col 11, line 59 – col 13, line 45; claims 5-6), and wherein the information on the center of gravity of the vehicle is ascertained

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from a ratio of contact patch forces of opposite wheels during cornering (Fig 2-4; col 3, lines 21-57; col 6, line 38 - col 7, line 60; col 11; col 9, lines 20-47; col 11, line 58 - col 2, line 1; claim 5).

4. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Response to Arguments

5. Applicant's arguments filed 09/11/2009 have been fully considered but they are not persuasive.

Applicant argues that the claimed invention is not anticipated by the prior art of Schramm et al since Schramm et al teach the displacement of the center of gravity instead of estimating the center of gravity as claimed.

Examiner respectfully disagrees since clearly, in at least Fig 4-5; col 3, lines 46-57; col 11, line 59 – col 12, lines 12; col 13, lines 39-42 of Schramm et al, a first height quantity h which corresponding to the center of gravity is determined; thus anticipating the limitation of estimating the center of gravity as claimed. Therefore, the rejections based on Schramm et al are still proper.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong P. Nguyen whose telephone number is 571-272-3445. The examiner can normally be reached on M-F, 8:00 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663